

qualified under State law, and consistent with the requirements for therapy services in § 409.17 of this subpart.

(f) *Standard: Patient visitation rights.* A CAH must have written policies and procedures regarding the visitation rights of patients, including those setting forth any clinically necessary or reasonable restriction or limitation that the CAH may need to place on such rights and the reasons for the clinical restriction or limitation. A CAH must meet the following requirements:

(1) Inform each patient (or support person, where appropriate) of his or her visitation rights, including any clinical restriction or limitation on such rights, in advance of furnishing patient care whenever possible.

(2) Inform each patient (or support person, where appropriate) of the right, subject to his or her consent, to receive the visitors whom he or she designates, including, but not limited to, a spouse, a domestic partner (including a same-sex domestic partner), another family member, or a friend, and his or her right to withdraw or deny such consent at any time.

(3) Not restrict, limit, or otherwise deny visitation privileges on the basis of race, color, national origin, religion, sex, gender identity, sexual orientation, or disability.

(4) Ensure that all visitors enjoy full and equal visitation privileges consistent with patient preferences.

[58 FR 30671, May 26, 1993; 58 FR 49935, Sept. 24, 1993, as amended at 59 FR 45403, Sept. 1, 1994; 62 FR 46037, Aug. 29, 1997; 72 FR 66408, Nov. 27, 2007; 73 FR 69941, Nov. 19, 2008; 75 FR 70844, Nov. 19, 2010; 76 FR 25564, May 5, 2011; 77 FR 29076, May 16, 2012; 78 FR 50970, Aug. 19, 2013; 79 FR 27156, May 12, 2014; 81 FR 68871, Oct. 4, 2016; 82 FR 32260, July 13, 2017; 84 FR 51827, 51883, Sept. 30, 2019]

**§ 485.638 Conditions of participation: Clinical records.**

(a) *Standard: Records system*—(1) The CAH maintains a clinical records system in accordance with written policies and procedures.

(2) The records are legible, complete, accurately documented, readily accessible, and systematically organized.

(3) A designated member of the professional staff is responsible for maintaining the records and for ensuring

that they are completely and accurately documented, readily accessible, and systematically organized.

(4) For each patient receiving health care services, the CAH maintains a record that includes, as applicable—

(i) Identification and social data, evidence of properly executed informed consent forms, pertinent medical history, assessment of the health status and health care needs of the patient, and a brief summary of the episode, disposition, and instructions to the patient;

(ii) Reports of physical examinations, diagnostic and laboratory test results, including clinical laboratory services, and consultative findings;

(iii) All orders of doctors of medicine or osteopathy or other practitioners, reports of treatments and medications, nursing notes and documentation of complications, and other pertinent information necessary to monitor the patient's progress, such as temperature graphics, progress notes describing the patient's response to treatment; and

(iv) Dated signatures of the doctor of medicine or osteopathy or other health care professional.

(b) *Standard: Protection of record information.* (1) The CAH maintains the confidentiality of record information and provides safeguards against loss, destruction, or unauthorized use.

(2) Written policies and procedures govern the use and removal of records from the CAH and the conditions for the release of information.

(3) The patient's written consent is required for release of information not required by law.

(c) *Standard: Retention of records.* The records are retained for at least 6 years from date of last entry, and longer if required by State statute, or if the records may be needed in any pending proceeding.

(d) *Standard: Electronic notifications.* If the CAH utilizes an electronic medical records system or other electronic administrative system, which is conformant with the content exchange standard at 45 CFR 170.205(d)(2), then the CAH must demonstrate that—

(1) The system's notification capacity is fully operational and the CAH uses it in accordance with all State and

Federal statutes and regulations applicable to the CAH's exchange of patient health information.

(2) The system sends notifications that must include at least patient name, treating practitioner name, and sending institution name.

(3) To the extent permissible under applicable federal and state law and regulations, and not inconsistent with the patient's expressed privacy preferences, the system sends notifications directly, or through an intermediary that facilitates exchange of health information, at the time of:

(i) The patient's registration in the CAH's emergency department (if applicable).

(ii) The patient's admission to the CAH's inpatient services (if applicable).

(4) To the extent permissible under applicable federal and state law and regulations, and not inconsistent with the patient's expressed privacy preferences, the system sends notifications directly, or through an intermediary that facilitates exchange of health information, either immediately prior to, or at the time of:

(i) The patient's discharge or transfer from the CAH's emergency department (if applicable).

(ii) The patient's discharge or transfer from the CAH's inpatient services (if applicable).

(5) The CAH has made a reasonable effort to ensure that the system sends the notifications to all applicable post-acute care services providers and suppliers, as well as to any of the following practitioners and entities, which need to receive notification of the patient's status for treatment, care coordination, or quality improvement purposes:

(i) The patient's established primary care practitioner;

(ii) The patient's established primary care practice group or entity; or

(iii) Other practitioner, or other practice group or entity, identified by the patient as the practitioner, or practice group or entity, primarily responsible for his or her care.

[58 FR 30671, May 26, 1993, as amended at 62 FR 46037, Aug. 29, 1997; 85 FR 25638, May 1, 2020]

**§ 485.639 Condition of participation: Surgical services.**

If a CAH provides surgical services, surgical procedures must be performed in a safe manner by qualified practitioners who have been granted clinical privileges by the governing body, or responsible individual, of the CAH in accordance with the designation requirements under paragraph (a) of this section.

(a) *Designation of qualified practitioners.* The CAH designates the practitioners who are allowed to perform surgery for CAH patients, in accordance with its approved policies and procedures, and with State scope of practice laws. Surgery is performed only by—

(1) A doctor of medicine or osteopathy, including an osteopathic practitioner recognized under section 1101(a)(7) of the Act;

(2) A doctor of dental surgery or dental medicine; or

(3) A doctor of podiatric medicine.

(b) *Anesthetic risk and evaluation.* (1) A qualified practitioner, as specified in paragraph (a) of this section, must examine the patient immediately before surgery to evaluate the risk of the procedure to be performed.

(2) A qualified practitioner, as specified in paragraph (c) of this section, must examine each patient before surgery to evaluate the risk of anesthesia.

(3) Before discharge from the CAH, each patient must be evaluated for proper anesthesia recovery by a qualified practitioner, as specified in paragraph (c) of this section.

(c) *Administration of anesthesia.* The CAH designates the person who is allowed to administer anesthesia to CAH patients in accordance with its approved policies and procedures and with State scope-of-practice laws.

(1) Anesthesia must be administered by only—

(i) A qualified anesthesiologist;

(ii) A doctor of medicine or osteopathy other than an anesthesiologist; including an osteopathic practitioner recognized under section 1101(a)(7) of the Act;

(iii) A doctor of dental surgery or dental medicine;

(iv) A doctor of podiatric medicine;